IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1993 OF 2007

Aminuru Ijul Gazi] .. Petitioner

Versus

State of Maharashtra] .. Respondent

Mr. Milan Desai i/b Mr. Mahesh Patil for the petitioner.
Mrs. A.S. Pai, APP, for the respondent.

CORAM: S.B. MHASE &
SMT.V.K. TAHILRAMANI, JJ.

DATED: 10TH DECEMBER, 2007

P.C. :

1. Heard.

2. This is a Writ Petition by an accused who has been convicted under Section 302 of the Indian Penal Code. As against conviction, the present petitioner has filed an Appeal bearing No.133 of 2007. However, the learned counsel submitted that the petitioner was a juvenile offender at the time of offence and, therefore, the present Writ Petition has been filed. In fact, under these circumstances, the ground that the accused was a juvenile offender is available in the substantive Appeal. At the most, if the said ground is not raised

in the Appeal Memo, it can be included or added as a result of the amendment of the Appeal Memo with leave of the Court. So also, the petitioner can file a Criminal Application for carrying out an investigation into the fact as to whether on the date of offence the accused - present petitioner was a juvenile offender or not.

3. Since these remedies are available to the accused-present petitioner in the main substantive Appeal which is pending before this court, we find that the Writ Petition is not maintainable. The learned counsel for the petitioner seeks leave to withdraw the Petition with liberty to file appropriate Criminal Application in the pending Criminal Appeal No.133 of 2007.

4. Petition is allowed to be withdrawn with leave and liberty to make an appropriate Criminal Application in the main substantive Appeal bearing No. 133 of 2007. Writ Petition is, accordingly disposed of.

Sd/-
[SMT.V.K. TAHILRAMANI, J.]

Sd/-
[S.B. MHASE, J.]